

pal chief attorney information as to whether such funds may be released to the guardian. The principal chief attorney's advice will be predicated upon the present status of the guardianship. If payments have been suspended to the guardian, or if the guardian is not satisfactorily accounting for the funds already received or bond is insufficient, the unexpended balance will be withheld until the irregularities have been adjusted. The chief attorney will then furnish the manager with information that the funds may be released to the guardian and will forward an executed VA Form 2-4704, Certificate of Legality of Appointment and Adequacy of Bond.

PART 21—ATTORNEYS AND AGENTS; RULES OF PRACTICE; FEES

PRESENTATION AND ADJUDICATION OF CLAIMS FOR BENEFITS

Sec.

- 21.5627 Requirements for recognition of accredited representatives. [Revised]
- 21.5630 Attorneys affiliated with organizations. [Revised]
- 21.5631 Knowledge of laws. [Revised]
- 21.5632 Character and citizenship. [Revised]
- 21.5633 Agents; requirements for recognition. [Revised]
- 21.5634 Notification of recognition of attorneys by field stations. [Revised]

SUSPENSION OR DISBARMENT OF AGENTS OR ATTORNEYS [REVISED]

- 21.5635 Suspension and revocation of recognition.
- 21.5637 Answer to charges.
- 21.5638 Acts subjecting recognized attorneys or agents to suspension or revocation.
- 21.5639 Rules of recognition.
- 21.5645 Willful withholding of application for pension.

RULES OF PRACTICE [REVISED]

- 21.5649 Supplying Veterans' Administration forms.
- 21.5651 Solicitation of fees.
- 21.5655 Amount of fees.
- 21.5658 Method of payment of fees.

AUTHORITY: §§ 21.5627 to 21.5649, appearing in this Supplement issued under R.S. 471, sec. 5, 43 Stat. 608, sec. 1, 46 Stat. 991, secs. 1, 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, secs. 201-203, 49 Stat. 2032; 38 U.S.C. 2, 11, 11a, 426, 707, 38 U.S.C. 102-104.

SOURCE: §§ 21.5627 to 21.5649, appearing in this Supplement contained in Regulations, Administrator, July 29, 1947, 12 F.R. 7399, except as noted following provisions affected.

PRESENTATION AND ADJUDICATION OF CLAIMS FOR BENEFITS

§ 21.5627 *Accredited representatives.* Recognized organizations shall file with the Administration on the prescribed form furnished by the Veterans' Administration the names of any officers whom it desires recognized as accredited representatives thereof and the Veterans' Administration office or offices at which recognition is to be extended in the presentation of claims. In proposing a candidate for recognition as a representative, the organization, through its appropriate officer, shall certify to the following:

That the applicant is a citizen of the United States, of good character and reputation, is qualified by training or experience to assist in the presentation of claims; and that he is a member or employee of the organization.

That he is not employed in any civil or military department or agency of the United States and not a retired member of the Regular Army, Navy, Marine Corps, Coast Guard or Public Health Service.

Whether the applicant is a veteran and if so, that he was honorably discharged from the active service. [Introductory text amended Apr. 4, 1947, 12 F.R. 2529]

[Preceding introductory text, in small type, superseded by following introductory text, also in small type, during period covered by this Supplement]

§ 21.5627 *Requirements for recognition of accredited representatives.* Recognized organizations shall file with the Administration on the prescribed form furnished by the Veterans' Administration the names of any officers whom they desire recognized as accredited representatives thereof and the Veterans' Administration office or offices at which recognition is to be extended in the presentation of claims. In proposing a candidate for recognition as a representative, the organization, through its appropriate officer, shall certify to the following:

(1) That the applicant is a citizen of the United States, of good character and reputation, is qualified by training or experience to assist in the presentation of claims; and that he is a member or employee of the organization.

(2) That he is not employed in any civil or military department or agency of the United States and not a retired member of the Regular Army, Navy, Marine Corps, Coast Guard or Public Health Service.

(3) Whether the applicant is a veteran, and if so, that he was honorably discharged from the active service. [Introductory text amended]

[Preceding introductory text, in small type, superseded by following introductory text during period covered by this Supplement]

§ 21.5627 *Requirements for recognition of accredited representatives.* Recognized organizations shall file with the

Administration on the prescribed form furnished by the Veterans' Administration the names of any officers whom they desire recognized as accredited representatives thereof and the Veterans' Administration office or offices at which recognition is to be extended in the presentation of claims. In proposing a candidate for recognition as a representative, the organization, through its appropriate officer, shall certify to the following:

(1) That the applicant is a citizen of the United States, of good character and reputation; is qualified by training or experience to assist in the presentation of claims; and that he is a member or employee of the organization.

(2) That he is not employed in any civil or military department or agency of the United States. [Introductory text amended Sept. 5, 1947, 12 F.R. 7401]

(b) An application received in the central office will be sent to the branch or regional office designated. The deputy administrator or regional manager, as the case may be, will secure sufficient facts, by field investigation, if necessary, to justify a determination whether the applicant is qualified. If the deputy administrator or the manager determines that the applicant is qualified, he will issue the notice (FL 2-3), sending the original to the applicant, and a copy to central office for notation and forwarding to the organization. If the approval is by the manager of a regional office, an additional copy will be forwarded to the appropriate branch office. In like manner, if approval is by the deputy administrator for the branch office and all regional offices in the branch area, copies will be forwarded to each regional office and a copy to central office. Branch and regional offices will establish intra-office procedures for notification of interested services. A record of accredited representatives will be maintained at each office. If the case is one of doubtful aspect, the entire matter will be referred to the central office, attention of the solicitor, through the appropriate branch office. [Paragraph (b) amended Apr. 11, 1947, 12 F.R. 2529]

[Preceding paragraph, in small type, superseded by following paragraph during period covered by this Supplement]

(b) An application received in the central office will be sent to the branch or regional office designated. The deputy administrator or regional manager, as the case may be will secure sufficient facts, by field investigation, if necessary, to justify a determination whether the applicant is qualified. If the deputy ad-

ministrator or the manager determines that the applicant is qualified, he will issue FL 2-3, Notice to Veteran's Representative of Recognition, sending the original to the applicant, and two copies to central office for notation and forwarding to the organization. If the approval is by the manager of a regional office, an additional copy will be forwarded to the appropriate branch office. In like manner, if approval is by the deputy administrator for the branch office and all regional offices in the branch area, copies will be forwarded to each regional office and two copies to central office. Branch and regional offices will establish intra-office procedures for notification of interested services. A record of accredited representatives will be maintained at each office. If the case is one of doubtful aspect, the entire matter will be referred to the central office, attention of the solicitor, through the appropriate branch office. [Paragraph (b) amended]

(c) Recognition will be canceled at the request of the organization, and the deputy administrator or manager may suspend any recognition for cause, pending a report, through channels, to the central office, attention of the solicitor, for final determination. In cases of extraordinary violation involving criminal action, cancellation may be effected immediately by the field office subject to review by central office. Where recognition is canceled or suspended in accordance with the above, notice thereof (FL 2-5 or letter of suspension) will be supplied in the same manner, as above stated, with respect to notice of recognition. [Paragraph (c) amended Apr. 11, 1947, 12 F.R. 2529]

[Preceding section, in small type, superseded by following section during period covered by this Supplement]

(c) Recognition will be canceled at the request of the organization, and the deputy administrator or manager may suspend any recognition for cause, sending a report, through channels, to the central office, attention of the solicitor, for final determination. In cases of extraordinary violation involving criminal action, cancellation may be effected immediately by the field office subject to review by central office. Where recognition is canceled or suspended in accordance with the above, notice thereof (FL 2-5, Cancellation of Recognition as Veteran's Representative, or letter of suspension) will be supplied in the same manner, as above stated, with respect to notice of

recognition. [Paragraph (c) amended, Sept. 5, 1947, 12 F.R. 7401]

CODIFICATION: Paragraph (c) was also amended July 29, 1948, 12 F.R. 7399. The text is identical to that set forth above.

(d) Nominations of accredited representatives of national service organizations and of the American Red Cross will be accepted only if approved by the national certifying officer of such organization.

(e) Letters of general recognition issued by the central office to national and field officers of recognized organizations will constitute authorization for their recognition in claims matters in all branch and regional offices of the Veterans' Administration and letters of recognition issued by a deputy administrator will constitute authorization for the accredited representative to present claims in the branch office only, or in the branch office and all regional offices in that area as required by his service organization.

(f) While accredited representatives are recognized for claims work at branch and regional offices their accreditation imparts the privilege of recognition in Veterans' Administration hospitals and homes in matters connected with such claims work. (R. S. 471, secs. 1, 5, 43 Stat. 607, 608, secs. 1, 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; sec. 200, 49 Stat. 2031; 38 U. S. C. 2, 11, 11a, 421, 426, 707; 38 U. S. C. 101) [Paragraphs (d), (e) and (f) amended, Apr. 11, 1947, 12 F.R. 2529]

§ 21.5630 *Attorneys affiliated with organizations.* The policy of the Veterans' Administration precludes the recognition as an attorney or agent, any person who is an officer or employee, appointive or elective, of any veteran, welfare, or State, county, or municipal organization engaged in assisting claimants in presenting claims before the Veterans' Administration without fee or emolument, except that any person holding such office whose duties do not include actual assistance in the presentation of claims before the Veterans' Administration may be recognized but will be precluded while holding such office from receiving a fee for services rendered as an attorney or agent in the presentation and prosecution of claims for benefits administered by the Veterans' Administration. Furthermore, it is contrary to the policy to permit an attorney or agent to transact claims business from or at an office from or at which a veteran or welfare organization, or an agency of a State or other

political subdivision, carries on its work incident to assisting claimants in presenting claims before the Veterans' Administration or to use the stationery of such organization or agency in transacting his claims business.

§ 21.5631 *Knowledge of laws.* Applicants for recognition as attorneys will be presumed to have such knowledge of the law and regulations as to qualify them to render substantial service and may be recognized by the chief attorney of the regional office in whose area he is engaged in the practice of law if his application shows he meets the requirements of § 21.5632.

[Preceding section, in small type, superseded by following section during period covered by this Supplement]

§ 21.5631 *Knowledge of laws.* An applicant for recognition as attorney will be presumed to have such knowledge of the law and regulations as to qualify him to render substantial service and may be recognized by the chief attorney of a branch or regional office if his application shows he meets the requirements of § 21.5632. Any duly recognized attorney will, for the purpose of receiving appropriate information in a specific case, be accorded such recognition by central office or any branch or regional office to which he presents a duly certified or attested copy of his notification of recognition as attorney, together with the original or similarly exemplified copy of power of attorney. [Reg., Oct. 14, 1947, 12 F.R. 7401]

§ 21.5632 *Character and citizenship.* Any person of good moral character and of good repute who is an attorney at law in good standing and a citizen of the United States, or who has declared his intention to become such a citizen, may be recognized, if not prohibited by law, and represent claimants before the Veterans' Administration, by presenting for that privilege, to the manager or to the deputy administrator, a properly executed application on the form prescribed by the Administrator, VA Form 2-3186, Application for Recognition as Attorney.

[Preceding section, in small type, superseded by following section during period covered by this Supplement]

§ 21.5632 *Character and citizenship.* Any person of good moral character and of good repute who is an attorney at law in good standing and a citizen of the United States, or who has declared his intention to become such a citizen, may be recognized if not prohibited by law, and represent claimants before the Veterans' Administration, by presenting for

that privilege, to the manager or to the deputy administrator, a properly executed application on the form prescribed by the Administrator, VA Form 2-3186, Application for Recognition as Attorney. Attorneys who are citizens of the Republic of the Philippines may be recognized under similar criteria in the presentation of claims before the Veterans' Administration office in the Philippines. [Reg., Oct. 14, 1947, 12 F.R. 7401]

§ 21.5633 *Agents*. Any competent person of good moral character and of good repute who is a citizen of the United States, or who has declared his intention to become such a citizen and who is not engaged in the practice of law, may be admitted to practice as an agent, if not prohibited by law, and represent claimants before the Veterans' Administration by presenting to the Administrator of Veterans' Affairs, Washington, D. C., a properly executed application on the form prescribed by the Administrator (VA Form 3187). Applicants for admission to practice as agents may be required to prove their fitness to render substantial service by undergoing a written examination testing their knowledge of the laws administered by the Veterans' Administration and regulations promulgated thereunder, as to which separate instructions will be issued. [Reg., Apr. 11, 1947, 12 F.R. 2529]

[Preceding section, in small type, superseded by following section during period covered by this Supplement]

§ 21.5633 *Agents; requirements for recognition*. Any competent person of good moral character and of good repute who is a citizen of the United States, or who has declared his intention to become such a citizen and who is not engaged in the practice of law, may be recognized as an agent, if not prohibited by law, and represent claimants before the Veterans' Administration by presenting to the Administrator of Veterans' Affairs, Washington, D. C., a properly executed application on the form prescribed by the Administrator, VA Form 3187, Application for Recognition as Agent. Applicants for recognition as agents may be required to prove their fitness to render substantial service by undergoing a written examination testing their knowledge of the laws administered by the Veterans' Administration and regulations promulgated thereunder, as to which separate instructions will be issued.

§ 21.5634 *Notification of appointment of attorney*. When an attorney has been admitted a 3 x 5 card will be prepared showing his name, address and date of admission. Copies of this card will be forwarded to (a)

office of the solicitor, (b) chief attorneys of branch and regional offices within that area, (c) the director, claims service of the branch office within that area, (d) the adjudication officers of regional offices within that area, and (e) to any other office in which the attorney requests that his admission be recorded. [Reg., April 11, 1947, 12 F.R. 2529]

[Preceding section, in small type, superseded by following section during period covered by this Supplement]

§ 21.5634 *Notification of recognition of attorneys by field stations*. When an attorney has been recognized a 3 x 5 card will be prepared showing his name, address and date of recognition. Copies of this card will be forwarded to (a) office of the solicitor, (b) chief attorneys of branch and regional offices within that area, (c) the director, claims service, of the branch office within that area, (d) the adjudication officers of regional offices within that area, and (e) to any other office in which the attorney requests that his recognition be recorded.

SUSPENSION OR DISBARMENT OF AGENTS OR ATTORNEYS [REVISED]

§ 21.5635 *Suspension and revocation of recognition*. Whenever the Administrator of Veterans' Affairs has knowledge or information that an attorney or agent recognized by the Veterans' Administration is or has engaged in unlawful, unprofessional or dishonest practice, or is incompetent, or has violated or refused to comply with the laws, regulations and rules governing his recognition before the Veterans' Administration, or who shall in any manner deceive, mislead, or threaten any claimant or prospective claimant by word, circular, letter or advertisement, the Administrator shall give the accused attorney or agent due notice with a statement of the charge or charges against him, which statement shall be sufficiently specific to permit the accused intelligently to make answer thereto, and shall cite said attorney or agent to show cause within 30 days, which time limit may be extended by the Administrator, why his recognition should not be suspended or revoked. Where deemed proper, the recognition of an attorney or agent may be temporarily suspended without notice, pending action as herein provided.

§ 21.5637 *Answer to charges*. If an answer, under oath, is filed denying the charges, or so explaining them as to raise

an issue thereon, a time and place shall then be set for the taking of testimony. The testimony shall be taken at as convenient a place as possible for both the Government and the defendant and notice shall be served on the defendant informing him of the time and place at which testimony will be taken for the Government, in order that he may be present and cross-examine the witnesses. Testimony shall be reduced to writing and be signed by the witnesses, unless otherwise stipulated, and may be taken before any officer authorized to administer oaths for general purposes or before any officer or agent of the Veterans' Administration designated for that purpose. After the testimony has been taken, it will be considered; and if the charge or charges be sustained the Administrator will suspend or revoke the recognition of such attorney or agent, or take such other action thereon as the facts warrant.

§ 21.5638 *Acts subjecting recognized attorneys or agents to suspension or revocation.* The recognition of any attorney or agent will be subject to suspension or revocation, who knowingly commits or is guilty of any of the following acts, to wit: (a) Presents or prosecutes a fraudulent claim against the United States or the Veterans' Administration; (b) demands or accepts any unlawful compensation for preparing, presenting or prosecuting any claim before the Veterans' Administration or for advice or consultation concerning such a claim; (c) with intent to defraud has in any manner deceived, misled, or threatened any claimant or prospective claimant by word, circular, letter, or advertisement; (d) who, in the presentation or prosecution of, or in connection with, any matter or business pending before said Veterans' Administration, has as his associate, or employs as his agent, sub-agent, or correspondent, any person who has been guilty of any of the above-mentioned acts, or who has been denied recognition, or has had his recognition suspended or revoked by the Veterans' Administration, or who himself acts as the associate, agent, subagent, or correspondent of any person; or who is otherwise and in any manner whatever guilty of dishonest or unprofessional conduct.

§ 21.5639 *Rules of recognition.* No person other than an accredited representative of a recognized organization

shall be recognized in the preparation, presentation or prosecution of any claim under statutes administered by the Veterans' Administration, unless he has been recognized as an attorney or agent pursuant to these regulations, except (a) that any person may be recognized for the purpose of a particular claim upon filing with the office where such claim folder is located a proper power of attorney and a statement signed by such person and the claimant that no fee or compensation of whatsoever nature shall be charged or paid for the services rendered, and except (b) in claims for insurance benefits under a contract in which the Government admits liability on the contract, there is no issue or contest as to the designated beneficiary, and it is reasonably apparent that the attorney or agent will not charge a fee. In the first class of cases the attorney should be advised by FL 2-16, Recognition Information to Attorneys and Individuals, regarding the requirements of being recognized in a particular claim or generally. In the latter class of cases a paragraph substantially as follows should be incorporated in the letter acknowledging receipt of the claim:

The evidence submitted by you in connection with the claim for insurance benefits in the instant case has been received and an adjudication of the claim for benefits will be made as expeditiously as possible. It is understood, of course, that you are not entitled to any fee for services performed by you in connection with the preparation and presentation of this claim, inasmuch as you have not been regularly recognized to present claims before the Veterans' Administration by the Administrator of Veterans' Affairs.

§ 21.5645 *Willful withholding of application for pension.* The willful withholding of an application for pension or evidence by an agent or attorney for any cause shall render the recognition of such agent or attorney liable to suspension or revocation.

RULES OF PRACTICE [REVISED]

§ 21.5649 *Forms and advertisements; use of by attorneys and agents.* Attorneys and agents shall not be furnished with supplies of Veterans' Administration forms but will be required to have them printed at their own expense and in strict accordance with the official forms prescribed by the Veterans' Administration. An attorney or agent may insert a power of attorney in his form over claimant's signature in words substantially as follows: "I hereby appoint -----

as my attorney to prosecute this claim." The power of attorney in order to be valid must fully comply with § 21.5641. Every attorney, agent, or other person recognized as entitled to practice before the Veterans' Administration shall submit to the Administrator, in duplicate, copies of all proposed forms and letterheads intended for use in connection with business before the Veterans' Administration and the Veterans' Administration will notify such attorney or agent of its approval or disapproval. The use by an attorney or agent of the characters "U. S.," or the words "United States," as a part of his title or of the title of his business shall not be permitted. Agents will not designate themselves as attorneys at any time except in a power of attorney. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not of itself improper, but solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional and will render an attorney or agent liable to suspension or exclusion from practice. [Reg., Apr. 11, 1947, 12 F.R. 2529]

[Preceding section, in small type, superseded by following section during period covered by this Supplement]

§ 21.5649 *Supplying Veterans' Administration forms.* Attorneys and agents shall not be furnished with supplies of Veterans' Administration forms but will be required to have them printed at their own expense and in strict accordance with the official forms prescribed by the Veterans' Administration. An attorney or agent may insert a power of attorney in his form over claimant's signature in words substantially as follows: "I hereby appoint ----- as my attorney to prosecute this claim." The power of attorney in order to be valid must fully comply with § 21.5641. Every attorney, agent, or other person recognized as entitled to present claims before the Veterans' Administration shall submit to the Administrator, in duplicate, copies of all proposed forms and letterheads intended for use in connection with business before the Veterans' Administration and the Veterans' Administration will notify such attorney or agent of its approval or disapproval. The use by an attorney or agent of the characters "U. S.," or the words "United States," as a part of his title or the title of his business shall not be permitted. Agents will not designate themselves as attorneys at any time except in a power of attorney. The publication or circulation of ordinary simple

business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not of itself improper, but solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional and will render the recognition of an attorney or agent liable to suspension or revocation.

§ 21.5651 *Solicitation of fees.* Attorneys or agents shall not, directly or indirectly, solicit, contract for, charge or receive, or attempt to solicit, contract for, charge or receive, any fee or compensation whatsoever for advice or consultation concerning the laws administered by the Veterans' Administration and the regulations, rules based thereon, or for service to claimants thereunder, except such fee or compensation as is herein provided, whether a claim has been or is thereafter filed, or no claim is filed for the person in whose behalf such advice or consultation is given or held or service rendered. Any agent or attorney who shall so do shall thereby subject his recognition by the Veterans' Administration to suspension or revocation, and be subject to the applicable penal provisions of the law.

§ 21.5655 *Amount of fees.* Except where prohibited by law and except in those cases where the person has been recognized in a particular claim, or has been recognized in an insurance claim without having been regularly recognized as an agent or attorney by the Administrator of Veterans' Affairs, and except in accrued claims and burial claims, a fee of \$10 in an original claim for monetary benefits under the statutes administered by the Veterans' Administration and a fee of \$2 in a claim for increase for such benefits, will be payable to the agent or attorney of record in an allowed claim. In the excepted cases referred to above no fee whatsoever may be paid to or charged by an agent or attorney.

§ 21.5658 *Method of payment of fees.* At the time of allowance of the claim an award of the attorney's fee, if same is found due, will be made and paid by deduction from the monetary benefit allowed, but only to the attorney or agent of record at the time of allowance. The attorney to be entitled must have been regularly recognized by the Veterans' Administration and in good standing at the time of such award.